

REMARKS

Claims 1-51 are pending. Claims 1, 9, 11, 14, 29, 35, 38, 39, 44 and 50 are amended herein. Claims 37 and 48 are canceled.

In the Office Action, claims 1, 9, 14, 29, and 58 were objected to. Claims 37 and 38 were rejected for allegedly failing to comply with the enablement requirement of 35 USC § 112. Further, claims 44-47 and 49 were rejected under 35 USC § 102(e) as allegedly anticipated by United States Patent No. 6,564,208 ("Littlefield"). Claims 1-6, 10, 13-17, 19-24, 30-32, 48, 50, and 51 were rejected under Section 103 as allegedly unpatentable over Littlefield. Claims 7, 18, and 24 were rejected under Section 103 as allegedly unpatentable over Littlefield in view of Official Notice. Claim 8 was rejected under Section 103 as allegedly unpatentable over Littlefield and a newsgroup post by "Helen" dated September 7, 2002, entitled "CWSApps Listing (with download) for My Deja" ("Helen"). Claim 9 was rejected under Section 103 as allegedly unpatentable over Littlefield in view of United States published patent application 20040267612 ("Veatch"). Claim 11 was rejected under Section 103 as allegedly unpatentable over Littlefield in view of the article "Personal Technology: BellSouth Putting Yellow Pages Online." ("Kanell"). Claim 12 was rejected under Section 103 as allegedly unpatentable over Littlefield in view of United States published patent application 20060212545 ("Nichols"). Claims 26-29 were rejected under Section 103 as allegedly unpatentable over Littlefield in view of United States published patent application 20010044837 ("Talib"). Claim 33 was rejected under Section 103 as allegedly unpatentable over Littlefield in view of United States published patent application 20040186769 ("Mangold"). Claim 34 was rejected under Section 103 as allegedly unpatentable over Littlefield and Mangold and further in view of the anonymous article referred to as "Intasys." Claims 35 and 36 were rejected under Section 103 as allegedly unpatentable over Littlefield in view of United States published patent application 20050033641 ("Jha"). Claims 39-43 rejected under Section 103 alternately as allegedly unpatentable over Littlefield in view of Official Notice and alternatively as allegedly unpatentable over Kannell. Claim 44 was rejected under Section 103 as allegedly unpatentable over Kannell.

Applicants thank the Examiner for the personal interview conducted on July 10, 2007, wherein the Examiner and Applicants' representative discussed the applicability of the

prior art of record to various of Applicants' claims. Although no agreement was reached in the interview, Applicants believe that all pending claims are patentable for at least the reasons set forth herein. Further, Applicants reserve the right to set forth further reasons in support of the patentability of their claims, including reasons supporting the separate patentability of the pending claims not expressly addressed herein, in future papers.

I. Claim Objections

All claim objections set forth in the Office Action are believed to be addressed by the claim amendments set forth herein.

II. Section 112 Rejections

The Section 112 rejections of claims 37 and 38 are believed to be addressed by the cancellation herein of claim 37.

III. Section 102 and 103 Rejections

For the reasons detailed below, Applicants respectfully traverse the rejections of all pending claims as unpatentable under either Section 102 or Section 103.

A. Claims 1, 39, and 44

Independent claim 1 recites in part that "the placement of said enhanced listing is not influenced by said enhanced display fee." Claims 39 and 44, as amended, include similar recitations. Claim 1 is discussed herein as exemplary. With respect to claim 1, the Examiner conceded that "Littlefield does not expressly disclose that the placement of the enhanced listing is not influenced by the enhanced display fee." (Office Action, page 7; emphasis in original.) The Examiner then argued that "Littlefield implies that placement of the listings is not influenced by the enhanced display fee" because Littlefield does not affirmatively teach that placement of listings is influenced by an enhanced display fee. (Id.) Therefore, according to the Examiner, the requirements of claim 1 that "the placement of said enhanced listing is not influenced by said enhanced display fee" would have been obvious

for at least the stated advantage of reducing the incentive to attempt to obtain higher search rankings by manipulation (or

even payment), and the implied advantage of thus displaying the listings most likely to be relevant first, saving users the trouble of searching through a larger number of listings to find something relevant.

(Id.) Applicants respectfully submit that the Examiner's stated reason for one of ordinary skill to have compensated for the acknowledged deficiencies of Littlefield has no support in the prior art of record or elsewhere, and therefore the Section 103 rejection of claim 1 as obvious over Littlefield alone must be withdrawn.

Littlefield does tout as a purported advantage of his system "providing webpage owners the ability to compete for the attention of the users of a search engine through the use of non-default content," thereby reducing "the incentive for those webpage owners to employ artificial means to obtain higher search rankings." (Littlefield, col. 4, lines 15-19.) However, there is no reason that one of ordinary skill would have thought that disincentivizing "webpage owners to employ artificial means to obtain higher search rankings" suggested that "the placement of said enhanced listing is not influenced by said enhanced display fee." At most, Littlefield suggests that if webpage owners have the opportunity to purchase enhanced listings, such webpage owners may be less incented to attempt to obtain higher search rankings through "artificial" mechanisms, e.g., presumably mechanisms such as including terms in a webpage thought to be attractive to search engines, etc. However, Littlefield does not thereby in any way teach or suggest "the placement of said enhanced listing is not influenced by said enhanced display fee." In fact, one could more easily argue that, if webpage owners knew that payment of an enhanced display fee would result in better placement for an enhanced listing, then it might be desirable to offer better placements for enhanced listings in exchange for payment of an enhanced display fee. In sum, Littlefield is at most wholly neutral with respect to the requirement of claim 1 that "the placement of said enhanced listing is not influenced by said enhanced display fee," and, to the extent that it is not neutral, actually teaches away from the foregoing claim recitation.

The Section 103 rejection of claim 1 as unpatentable over Littlefield alone must be withdrawn for at least the foregoing reasons. Claims 2-38 all depend directly or indirectly from Littlefield, and are patentable at least by reason of their dependence from claim 1.

Further, independent claims 39 and 44, as well as claims 40-43 and 45-51 depending respectively therefrom, are similarly patentable over Littlefield.

B. Claim 8

Claim 8 recites in part “a plurality of responses, including a first response and a second response . . . wherein said first priority metric is associated with said first listing in said first response, and wherein said second priority metric is associated with said first listing in said second response.” The Examiner asserted that claim 8 was unpatentable over the combination of Littlefield and a newsgroup post by “Helen,” dated September 7, 2002, entitled “CWSApps Listing (with download) for My Deja.” In fact, Helen teaches at most a single response and not “a first response and a second response.” Moreover, Helen teaches against “said first priority metric . . . associated with said first listing in said first response” and “said second priority metric is associated with said first listing in said second response.”

Helen discloses that once “My Deja” returns a set of search results, the “[r]esults can then be sorted by a relevance score, newsgroup, author, subject thread, or date.” However, nowhere does Helen disclose “My Deja” providing more than a single set of search results. Therefore, Helen can in no way read on the requirement of claim 8 of “a plurality of responses.”

Further, the Examiner appears to have alleged that “relevance score, newsgroup, author, subject thread, or date” as discussed by Helen are all priority metrics. (See Office Action, page 13.) However, these purported priority metrics all appear within the single set of search results disclosed by Helen. For example, assuming for the moment that “date” and “author” are a first and second priority metric, Helen does not teach or suggest that “date” is associated with a listing in a “first response,” and that “author” is associated with a listing in a “second response.” To the contrary, Helen teaches that “date” and “author” are both associated with a particular listing in a single set of search results. Accordingly, Helen fails to teach or suggest that “said first priority metric is associated with said first listing in said first response, and . . . said second priority metric is associated with said first listing in said second response.” Indeed, Helen teaches against the foregoing recitation of claim 8 because from Helen one of ordinary skill would have thought there was no need or reason for “a

plurality of responses” or associating different priority metrics with a listing in different responses.

For at least the foregoing reasons, claim 8 is separately patentable.

C. Claim 11

Claim 11 depends from claim 1 and further recites

a plurality of enhanced listings and a plurality of groups included in said response, said enhanced listings including a first enhanced listing and a second enhanced listing, said plurality of groups including a first group and a second group, wherein each said listing and each said enhanced listing is associated with at least one said group, and wherein said first enhanced listing belongs to said first group and wherein said second enhanced listing belongs to said second group.

The Examiner asserted (Office Action, page 14) that “Kanell teaches enhancement of listings . . . and also a plurality of groups.” However, to the extent that Kanell teaches a plurality of groups, Kanell does not teach or suggest “a plurality of groups included in said response.” Instead, Kanell teaches at most a single group in a particular set of search results. For example, Kanell discloses that a user may obtain a set of search results pertaining to, e.g., restaurants. Assuming arguendo that “restaurants” represents a particular group of listings, a user may search on a second group of restaurants, e.g., “Greek restaurants.” However, even if “restaurants” and “Greek restaurants” are first and second groups of listings, these first and second groups of listings are not included in a single set of search results. That is, a set of search results as disclosed by Kanell will include either “restaurants” or “Greek restaurants,” but not both. Therefore, Kanell does not read on the requirement of claim 11 of “a plurality of groups included in said response.”

For at least the foregoing reasons, claim 11 is separately patentable. Further, claim 12 is patentable at least by reason of its dependence from claim 11.

D. Claim 20

Claim 20 depends from claim 1 and further recites that

each said listing is associated with a per-hit fee, wherein said enhanced display fee for said enhanced listing is included in

said per-hit fee associated with said enhanced listing, and wherein said listings displayed by said user subsystem are not displayed in an order that is in accordance with said per-hit fee.

The Examiner rejected claim 20 as allegedly unpatentable over Littlefield alone, but acknowledged that “Littlefield does not expressly disclose that the listings displayed by the user subsystem are not displayed in an order that is in accordance with the per-hit fee.” (Office Action, pages 10-11.) The Examiner then argued that it would have been “obvious for the listings displayed by the user subsystem not be displayed in an order that is in accordance with the per-hit fee” because “Littlefield teaches giving advertisers the ability to compete for attention through enhanced listings, reducing the incentive to attempt to obtain higher search rankings.” (*Id.*, page 11.)

In fact, Applicants respectfully submit that Littlefield’s purported advantage of “giving advertisers the ability to compete for attention through enhanced listings” could just as easily have suggested to one of ordinary skill that listings would be displayed in an order in accordance with a per-hit fee, and that an enhanced listing would give an advertisers the opportunity to compete for attention despite low placement based on a per-hit fee. Thus, at most, Littlefield is wholly neutral with respect to the requirements of claim 20 that “said listings displayed by said user subsystem are not displayed in an order that is in accordance with said per-hit fee.” Moreover, Littlefield’s disclosure of click-through fees and the use of “non-default content” to overcome the ordering resulting from use of click-through fees would seem to teach away from the foregoing recitation of claim 20.

For at least the foregoing reasons, claim 20 is separately patentable.

E. Claim 30

Claim 30 depends from claim 1 and further recites

a plurality of fee type attributes, wherein each said enhanced listing in said response is associated with at least one said fee type attribute, and wherein said enhanced display fee associated with said enhanced listing is influenced by said fee type attribute.

The Examiner contended that Littlefield by it self reads on claim 30. However, Littlefield simply discloses a subscription fee for an advertiser to be potentially included in search

results, where the subscription fee “may be based on a variety of factors, including the size and type of the non-default items that webpage owners desire to associate with the search result listings for their pages.” (Littlefield, column 4, lines 7-9.) Littlefield also discloses “click-through fees” that may be charged “instead of or in addition to a subscription fee for associating non-default items with search result listings.” (*Id.*, column 4, lines 10-12.) However, nowhere does Littlefield teach or suggest that click-through fees may be influenced by Littlefield’s subscription fee, or vice versa. Accordingly, at a minimum, Littlefield does not teach or suggest at least the requirement of claim 30 that “said enhanced display fee associated with said enhanced listing is influenced by said fee type attribute.”

For at least the foregoing reasons, claim 30 is separately patentable.

CONCLUSION

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013, under order number 66703-0015 from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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